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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MICROSOFT CORPORATION,

11 Plaintiff,

12 v.

13 MOTOROLA, INC, et al.,

14 Defendants.

15 MOTOROLA MOBILITY, INC., et  
16 al.,

17 Plaintiffs,

18 v.

19 MICROSOFT CORPORATION,

20 Defendant.

CASE NO. C10-1823JLR

ORDER REGARDING  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

1       Following this order, the court will issue its Findings of Fact and Conclusions of  
2 Law (the “Findings and Conclusions”) determining a reasonable and non-discriminatory  
3 royalty rate and range for Motorola’s standard essential patents. The Findings and  
4 Conclusions will be filed under seal to afford the parties an opportunity to redact  
5 confidential and proprietary information contained therein consistent with the following  
6 guidance.

7       The court reminds the parties that in the Ninth Circuit, “compelling reasons” in  
8 favor of sealing must be shown for redactions to records and testimony presented at trial.  
9 Indeed, historically, courts have recognized a “general right to inspect and copy public  
10 records and documents, including judicial records and documents.” *Nixon v. Warner*  
11 *Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978). “Unless a particular court record is one  
12 ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the starting point.  
13 *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting  
14 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). In order to  
15 overcome this strong presumption, a party seeking to seal a judicial record must articulate  
16 justifications for sealing that outweigh the public policies favoring disclosure. *See*  
17 *Kamakana* at 1178-79. “[T]he resolution of a dispute on the merits, whether by trial or  
18 summary judgment, is at the heart of the interest in ensuring the ‘public’s understanding  
19 of the judicial process and of significant public events.’” *Kamakana*, 447 F.3d at 1179  
20 (quoting *Valley Broadcasting Co. v. U.S. Dist. Court for Dist. of Nev.*, 798 F.2d 1289,  
21 1294 (9th Cir. 1986)). Thus, a party seeking to seal a judicial record attached to a  
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1 | dispositive motion or presented at trial must articulate “compelling reasons” in favor of  
2 | sealing. *See Kamakana* at 1178.

3 | Consistent with the Ninth Circuit standard, under the court’s local rules, “[t]here is  
4 | a strong presumption of public access to the court’s files.” Local Rules W.D. Wash. CR  
5 | 5(g). To rebut this presumption, the local rules require that any party filing a motion to  
6 | seal must include in that motion:

7 | (A) a certification that the party has met and conferred with all other parties  
8 | in an attempt to reach agreement on the need to file the document under  
9 | seal, to minimize the amount of material filed under seal, and to explore  
redaction and other alternatives to filing under seal; this certification  
must list the date, manner, and participants of the conference.

10 | (B) a specific statement of the applicable legal standard and the reasons for  
11 | keeping a document under seal, with evidentiary support from  
declarations where necessary.

12 | Local Rules W.D. Wash. CR 5(g)(3).

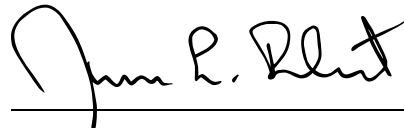
13 | During the trial, the courtroom was closed to the public for several portions of  
14 | witness testimony. Any redactions to the court’s Findings and Conclusions shall be  
15 | limited to testimony elicited during times the courtroom was closed to public viewing.  
16 | Moreover, the court instructs the parties to seek redactions to only the portions of the  
17 | Findings and Conclusions necessary to protect the confidential or proprietary  
18 | information. The parties are strongly encouraged to redact single words or numbers, as  
19 | opposed to entire sentences.

20 | Additionally, the court’s Findings and Conclusions reference deposition  
21 | designations of the parties. The court will file the entirety of the parties’ deposition  
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1 designations after the parties have an opportunity to redact confidential and proprietary  
2 information.

3 With the foregoing guidance, the court ORDERS the parties, no later than 12:00  
4 p.m. on April 25, 2013, to file (1) a proposed joint redacted version of the court's  
5 Findings and Conclusions; and (2) a proposed joint redacted version of the parties'  
6 deposition designations. The court schedules a telephonic hearing for April 26, 2013 at  
7 9:00 a.m. to hear argument on any redactions where the parties disagree and to make  
8 conclusive rulings on which redactions meet the compelling reasons standard.

9 Dated this 19th day of April, 2013.

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13 JAMES L. ROBART  
14 United States District Judge  
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